

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

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<p>DONALD WILLINGHAM, Petitioner, vs. 7TH CIRCUIT COURT OF PENNINGTON COUNTY, Respondent.</p>	<p>5:21-CV-5001-KES  ORDER DENYING MOTION TO PROCEED IN FORMA PAUPERIS (DOC. 3)</p>
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Pending is Petitioner Donald Willingham's Motion to Proceed in Forma Pauperis. (Doc. 3). Pursuant to the local rule for the District of South Dakota,

If a habeas corpus petitioner desires to prosecute a petition in forma pauperis, the petitioner must file an application to proceed in forma pauperis on a form prescribed by the court (Motion to Proceed Without Prepayment of Fees and Declaration), accompanied by a certification of the warden or other appropriate officer of the institution in which the petitioner is confined as to the amount of money or securities on deposit for the petitioner. If the petitioner has in excess of \$25 on deposit, the petitioner must pay the filing fee to proceed with a 28 U.S.C. § 2241 or a 28 U.S.C. § 2254 case.

D.S.D. Civ. LR 83.8(B). Petitioner filed his Motion to Proceed in Forma Pauperis (Doc. 3) accompanied with a Prisoner Trust Account Report (Doc. 4) which has been signed by an authorized officer. Petitioner has a current balance of \$135.40 in his prisoner trust account. Because Petitioner has in excess of \$25 on deposit, as provided by D.S.D. Civ. LR 83.8(B), Petitioner's § 2254 habeas case cannot proceed until he pays the filing fee. It is hereby

ORDERED that the Motion to Proceed in Forma Pauperis (Doc. 3) is denied without prejudice; and

ORDERED that Petitioner pay the required filing fee or his § 2254 habeas case will not proceed.

DATED this 1st day of February, 2021.

BY THE COURT:

  
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DANETA WOLLMANN  
United States Magistrate Judge